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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MORRISON, THOMAS A

ART UNIT

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3653

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,983	<b>Applicant(s)</b> KUTZER, OLIVER	
	<b>Examiner</b> THOMAS A. MORRISON	<b>Art Unit</b> 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12/17/2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group I (i.e., claims 7-12) in the reply filed on 12/17/2010 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 1-6 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/17/2010.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the consignment" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the sensors". There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the sensors". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 7-10, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,792,332 (DePoi).

Regarding claim 7, Figs. 3-5 show a device for separating flat consignments by means of a plurality of successive take-off elements having acceleration stages, whereby the take-off elements act on one side on sides of the consignment in a take-off plane, whereby

a nominal take-off speed of the take-off elements (roller pairs in Fig. 3) in each acceleration stage (stage where each pair of rollers is located) can be higher than a nominal take-off speed of the take-off elements (upstream roller pair) of the acceleration stage (stage where an upstream pair of rollers is located) upstream in a direction of transport at any one time,

a sensor (e.g., S2, S3, encoder for motor M2 or encoder for motor M3) for measuring a speed of the consignment lying on the take-off elements is located on the side of the take-off element in the feed region of the respective acceleration stage, and

a control unit (100) is provided which is implemented such that as soon as the speed of the consignment lying on the take-off elements, which is measured in a feed region of each acceleration stage by means of the sensor (e.g., S2, S3, encoder for motor M2 or encoder for motor M3) located on the side of the take-off elements, deviates by only a defined low value from the nominal speed of the take-off elements in the acceleration stage, the speed of the take-off elements (upstream pair of rollers) of the upstream acceleration stage in the direction of transport is reduced.

Regarding claim 8, Figs. 3-5 show that the sensors (e.g., S2, S3, encoder for motor M2 or encoder for motor M3) are located between the acceleration stages.

Regarding claim 9, Figs. 3-5 show sensors (S4-S14 or encoders for motors M4-M14) are additionally located in the region of the acceleration stages downstream in the direction of transport on the side facing away from the take-off elements (roller pairs) which measure the speed of the consignments that can be sensed from the side facing away from the take-off elements (roller pairs).

Regarding claim 10, Figs. 3-5 show that the sensors (encoders for motors M2-M14) for measuring the consignment speed are implemented as one of rollers and bands, running on consignment surfaces, in fixed locations and driving tachogenerators, whereby rotational speeds or a voltage generated by the tachogenerators serves as a measure of the consignment speed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over DePoi as applied to claim 7 above, and further in view of U.S. Patent No. 5,449,166 (Lohmann et al.) (hereinafter "Lohmann"). DePoi discloses all of the limitations of claim 11, except for controlled powered take-off belts being provided as take-off elements. Instead, DePoi shows roller pairs that are used as the take-off elements

Lohmann discloses that it is well known in the art to a belt and pulley arrangement with a roller arrangement and vice versa, because these two take-off arrangements are art known equivalents. See, e.g., Fig. 1 and col. 3, lines 35-44 of Lohmann. It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace each of the roller pairs of DePoi with a belt and pulley arrangement, because it is well known in the art that these two take-off arrangements are art known equivalents for conveying sheets, as taught by Lohmann. Thus, all of the limitations of claim 11 are met by the cited combination of references.

5. Claims 7, 8 and 10, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Publication No. 59-12029 (hereinafter "JP'029") in view of U.S. Patent No. 5,742,318 (Miyauchi et al.) (hereinafter "Miyauchi").

Regarding claim 7, Figs. 1-7 of JP'029 show a device for separating flat consignments by means of a plurality of successive take-off elements (7, 8, 1 and 2) having acceleration stages, whereby the take-off elements (7, 8, 1 and 2) act on one side on sides of the consignment in a take-off plane, whereby

a sensor (including 4, 9 and 10) for measuring a speed of the consignment lying on the take-off elements is located on the side of the take-off element in the feed region of the respective acceleration stage, and

a control unit (18) is provided which is implemented such that as soon as the speed of the consignment lying on the take-off elements, which is measured in a feed region of each acceleration stage by means of the sensor (including 4, 9 and 10) located on the side of the take-off elements, deviates by only a defined low value from the nominal speed of the take-off elements (2 and 1) in the acceleration stage, the speed of the take-off elements (8 and 7) of the upstream acceleration stage in the direction of transport is reduced. See, e.g., English abstract of JP'029. JP'029 discloses most of the limitations of claim 7, but does not explicitly disclose that a nominal take-off speed of the take-off elements (e.g., 1 and 2) in each acceleration stage is higher than a nominal take-off speed of the take-off elements (e.g., 7 and 8) of the acceleration stage upstream in a direction of transport at any one time, as claimed.

Miyauchi discloses that it is well known in the art to operate downstream take-off elements (12b and 13) at a higher velocity than upstream take-off elements (6b and 6a) for the purpose of applying proper tension force to the sheet being fed. It would have

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been obvious to one of ordinary skill in the art at the time the invention was made to operate the downstream take-off elements (1 and 2) of JP'029 at a higher velocity than the upstream take-off elements (7 and 8) of JP'029 for the purpose of properly tensioning the sheet, as taught by Miyauchi. See, e.g., Figs. 1-22 and the abstract of Miyauchi.

Regarding claim 8, as best understood, the sensors are located between the acceleration stages.

Regarding claim 10, as best understood, the sensors for measuring the consignment speed are implemented as one of rollers and bands, running on consignment surfaces, in fixed locations and driving tachogenerators, whereby rotational speeds or a voltage generated by the tachogenerators serves as a measure of the consignment speed.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP'029 in view of Miyauchi as applied to claim 7 above, and further in view of U.S. Patent No. 5,029,837 (Uchiyama) (hereinafter "Uchiyama"). JP'029 in view of Miyauchi discloses all of the limitations of claim 11, except for controlled powered take-off belts being provided as take-off elements. Instead, JP'029 shows rollers (7, 8, 1 and 2) that are used as the take-off elements

Uchiyama discloses that it is well known in the art to replace rollers (18 and 20) with a belt and pulley arrangement, because these two take-off arrangements are art known equivalents. See, e.g., Fig. 1 and col. 21, lines 44-51 of Uchiyama. It would

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have been obvious to one of ordinary skill in the art at the time the invention was made to replace each of the roller pairs (7 and 8, and 1 and 2, respectively) of JP'029 with a belt and pulley arrangement, because it is well known in the art that these two take-off arrangements are art known equivalents for conveying sheets, as taught by Uchiyama. Thus, all of the limitations of claim 11 are met by the cited combination of references.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP'029 in view of Miyauchi and Uchiyama as applied to claim 11 above, and further in view of U.S. Patent No. 3,847,383 (Wojtowicz et al.) (hereinafter "Wojtowicz"). JP'029 in view of Miyauchi and Uchiyama discloses all of the limitations of claim 12, except for vacuum chambers to draw consignments onto belts, as claimed.

Wojtowicz discloses that it is well known in the art to provide a paper handling device with a belt arrangement (including 18) and vacuum chambers (Figs. 1 and 2) pulling on such belt arrangement (including 18), because such belt and vacuum chamber arrangement of Wojtowicz virtually eliminates double-feeding by multiple restraint schemes. See, e.g., Abstract and Figs. 1-2 of Wojtowicz. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that apparatus of JP'029 in view of Miyauchi and Uchiyama with a vacuum chamber arrangement pulling on the belt arrangement, because such belt and vacuum chamber arrangement virtually eliminates double-feeding by multiple restraint schemes, as explicitly taught by Wojtowicz. Thus, all of the limitations of claim 12 are met by the cited combination of references.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS A. MORRISON whose telephone number is (571)272-7221. The examiner can normally be reached on M-F, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrick Mackey/  
Supervisory Patent Examiner, Art  
Unit 3653

3/13/2010